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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/749,058	12/30/2003	Edmond Heng Lim	LIM1	7391

45498 7590 09/01/2006

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EXAMINER

ELKINS, GARY E

ART UNIT	PAPER NUMBER
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3727

DATE MAILED: 09/01/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.		Applicant(s)	
	10/749,058		LIM, EDMOND HENG	
	Examiner		Art Unit	
	Gary E. Elkins		3727	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. Claims 2, 8, 9, 11, 15 and 16 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 2, lines 13 and 14, “at least one panel” and “another panel” are each a double inclusion of an element, i.e. the element is being reintroduced into the claim.

In claim 8, “said end of said four sidewalls” lacks antecedent basis in the claims and is unclear since all of the four sidewalls do not include a single common end as disclosed.

In claim 11, “said sidewall” (two occurrences) is unclear since a plurality of sidewalls were previously set forth in the claims.

In claim 15, line 5, “said beverage support member” lacks antecedent basis in the claims.

In claim 15, lines 3-5 are unclear with respect to how the beverage support panel is hingedly attached *at each end* to one end of both a first support arm and a second support arm, i.e. as disclosed, each end is attached to a respective one of the support arms as opposed to both.

2. Claim 3 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. Claim 3 is a single means claim and thus does not comply with the enablement requirement. See *In re Hyatt*, 708 F.2d 712, 218 USPQ 195 (Fed. Cir. 1983).

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claim 1 is rejected under 35 U.S.C. 102(b) as being clearly anticipated by any one of Coe, Scheinbaum et al or Lim '217.

5. Claims 3-5 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Correll '949.

6. Claims 1-5 are rejected under 35 U.S.C. 102(e) as being anticipated by Correll '932.

Correll '932 discloses a serving tray including center panel 20, sidewalls 30, 50, 62, 94 disposed around a portion of the center panel forming a three dimensional space capable of receiving an item. The tray of Correll '932 further discloses an extension section 92 capable of holding a beverage in a beverage container and a support member formed by a section of the center panel underneath the extension. Locking means 56, 80 secures at least one of the panels to another of the panels as claimed.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are

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such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 2, 6-12, 19 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lim '217 in view of either Correll '932 or Correll '949. Lim '217 discloses a serving tray including center panel 4, sidewalls 6, 10, 14, 18, center panel extension section 44 and support panel 70. Lim '217 does not disclose locking means either substantially identical to or equivalent to the locking means described in the specification. Each of Correll '932 and Correll '949 teaches that it is known to secure panels of a fold-box using locking means (56, 80; 42, 104, respectively). It would have been obvious to connect a corner of the tray in Lim '217 using an interlocking tab and slot construction as taught by either Correll '932 or Correll '949 to provide a stronger and more positive interlock of the corners of the tray. With respect to claims 7-9, note is made of the gusset 48 in Lim '217. With respect to claims 10-12, note is made of the aperture in the sidewall 6 which is considered capable of receiving the thumb of a user.

9. Claims 13 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over the prior art as applied to claim 6 above, and further in view of Martin or Montgomery. Modified Lim '217 fails to evidence a second thumbhole on an opposite sidewall of the tray. Each of Martin and Montgomery teaches that it is known to make a container with thumbholes in opposing sides of the container. It would have been obvious to make the opposing sides of the container in Lim '217 with thumbholes as taught by either Martin or Montgomery to facilitate support of the container by hand on either side.

10. Claims 17 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over the prior art as applied to claim 6 above, and further in view of either Torkelson or Sorenson et al. Modified Lim '217 fails to evidence a slot or slots capable of holding eating at least one eating

utensil. Each of Torkelson and Sorenson et al teaches that it is known to make a serving container with holes to facilitate holding utensils for eating. It would have been obvious to make the container in Lim '217 with at least one slot or a plurality of slots as taught by either Torkelson or Sorenson et al to facilitate retention and/or easy transport of at least one eating utensil prior to use.

Allowable Subject Matter

11. Claims 15 and 16 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Conclusion

The remaining cited prior art is illustrative of the general state of the art.

In order to reduce pendency and avoid potential delays, Technology Center 3700 is encouraging FAXing of responses in Office Actions to (571)273-8300. This practice may be used for filing papers not requiring a fee. It may also be used for filing papers which require a fee by Applicants who authorize charges to a PTO deposit account. Please identify the Examiner and art unit at the top of your cover sheet.

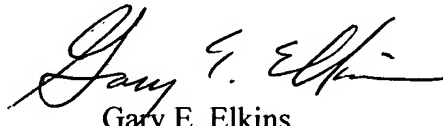
Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. Also, copies of an office action or other file information may be obtained from the Private PAIR system. For more information about the

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PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions regarding access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Any inquiry concerning this communication or earlier communication from the Examiner should be directed to Gary Elkins at telephone number (571)272-4537. The Examiner can normally be reached Monday through Thursday.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Mr. Nathan Newhouse can be reached at (571)272-4544.


Gary E. Elkins
Primary Examiner
Art Unit 3727

gee
29 August 2006